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July 22<sup>nd</sup>, 2019Via Facsimile (845)-359-5115

Honorable Patrick J. Loftus

Town Justice

Town of Orangetown Justice Court

26 West Orangeburg Road

Orangeburg, New York 10962

Re: People v. Douglas Guido - Downgraded Felony Charge

Dear Justice Loftus,

The undersigned has been retained to represent the legal interests of the victim Richard Hess and his parents in connection with the above listed criminal case which is scheduled for a sentencing on July 24<sup>th</sup>, 2019 before this Honorable Court. The client's parents have already submitted a victim's impact statement on behalf of their deceased son by separate cover and have requested an opportunity to speak before this Court in person for the sentencing.

The undersigned wished by way of this communication to provide this Court on behalf of the victim's family with the legal procedural history to date which this Honorable Court may not be aware of and is relevant to the Court's final determination as to an appropriate sentence.

Upon information and belief, this tragic incident occurred on June 23<sup>rd</sup>, 2018 at 3:13 a.m. on the street in Pearl River, New York whereby Douglas Guido (who had been an acquaintance of the victim) assaulted Richard Hess with a closed fist on the side of his head causing him to fall remaining unconscious. Mr. Hess later died at the hospital a week after the assault had occurred. The victim's family did not wish to have an autopsy however, the medical records from the hospital clearly indicated that Mr. Hess died from the attack due to blunt force trauma to his head.

Thereafter, the victim's family had been advised by police detectives that the felony assault charges would be upgraded and the family understood the matter was going to be presented to a Grand Jury for further action. Unfortunately, the District Attorney's office did not present the

matter and merely downgraded the original Felony Assault charge to a misdemeanor grade Assault charge which resulted in a further plea before this Court.

The victim's family has further advised the undersigned that they were not consulted with regard to either the decision not to present this matter to an empaneled Grand Jury and the further decision to downgrade the matter to a simple misdemeanor grade assault offense. Additionally, the victim's family has advised that they were not consulted concerning the recommended promised sentence that the District Attorney's office was making of a straight term of probation.

The undersigned in an effort to have the victim's family's wishes communicated had previously met with representatives of the District Attorney's office who indicated that they had made their decision not to present the matter to a Grand Jury and to downgrade the offense, namely due to the fact that there had been no autopsy provided. Notwithstanding same, the undersigned had requested they re-consider same as the autopsy in and of itself was not necessary in light of the detailed medical records from the victims' medical providers.

Moreover, the undersigned had specifically requested on behalf of the victim's family that the matter be presented to an empaneled Grand Jury as they would be the appropriate determiner of fact(s) with regard to whether the matter should be upgraded to a Manslaughter charge or downgraded to lesser included charge as warranted. For a case of this magnitude not to have been presented to the Grand Jury and for the victim's family not to have been properly consulted with regard to this decision beforehand is troubling. Furthermore, as the victim's family had not been consulted with regard to the recommended sentence of probation (for the downgraded misdemeanor Assault conviction) is all the more concerning for the Hess family who had been under the impression that the defendant's family included members of the law enforcement community and it appeared that he was receiving preferential treatment.

As for an appropriate sentence, the Hess family have indicated that while the parties were acquaintances and had been together the night leading up to the Assault this should not outweigh the consequences from same resulting in the loss of Richard's life. As such, the family believes that the only appropriate sentence would warrant a twelve (12) month term of incarceration accordingly.

I remain,  
Very truly yours,

Kevin T. Conway

cc: Ms. Veronica Phillips, Esq.  
Assistant District Attorney (Via. Facsimile)  
Hess Family

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**FACSIMILE TRANSMITTAL SHEET**

**DATE: July 23, 2019**

**Via Facsimile: 845-359-5115**  
**Honorable Patrick J. Loftus**  
**Town Justice**  
**Town of Orangetown Justice Court**  
**26 West Orangeburg Road**  
**Orangeburg, New York 10962**

**Re: People v. Douglas Guido – Downgraded Felony Charge**

**CC: Ms. Veronica Phillips, Esq.**  
**Assistant District Attorney (Via. Fax, 845-638-5298)**  
**Hess Family**

**# PAGES 3 (including this cover page)**

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